

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

United States of America,

Case No. 3:20-cr-634

Plaintiff,

v.

ORDER

Andy Ross Thomas,

Defendant.

On June 15, 2022, a jury convicted Defendant Andy Ross Thomas of one count of making a false statement during the purchase of a firearm, in violation of 18 U.S.C. § 922(a)(6), and possession of a firearm while subject to a court order, in violation of 18 U.S.C. § 922(g)(8). (Doc. No. 74). On April 26, 2023, Thomas filed a motion for leave to file a post-verdict motion for acquittal under Rule 29 or a motion for a new trial under Rule 33. (Doc. No. 81). Thomas' motion relies upon the decision of the Fifth Circuit Court of Appeals in *United States v. Rahimi*, 61 F.4th 443 (5th Cir. 2023), in which the Fifth Circuit ruled that § 922(g)(8) violated the Second Amendment to the United States Constitution. The government opposed Thomas' motion, arguing it is untimely and I may not consider his arguments. (Doc. No. 82).

A defendant is required to file a post-verdict motion under Rule 29 or Rule 33 within 14 days of the date of the jury's verdict. Fed. R. Crim. P. 29(c)(1); Fed. R. Crim. P. 33(b)(1). These deadlines are jurisdictional. *See, e.g., Carlisle v. United States*, 517 U.S. 416, 433 (1996) (holding “[t]here is simply no room in the text of Rules 29 and 45(b) for the granting of an untimely postverdict

motion for judgment of acquittal, regardless of whether the motion is accompanied by a claim of legal innocence, is filed before sentencing, or was filed late because of attorney error.”); *United States v. Emuegbunam*, 268 F.3d 377, 397 (6th Cir. 2001) (holding “[f]or a district court to have jurisdiction over a motion made under Rule 29 or Rule 33,” the motion must be filed before the deadline has passed).

Thomas filed his motion more than 14 days after the jury returned its verdict on June 15, 2022. Therefore, I conclude I lack jurisdiction to hear Thomas’ motion and deny it. (Doc. No. 81).

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge